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c 88 The Grain Elevator Storage Amendment Act, 1973

Ontario

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CHAPTER 88

An Act to amend The Grain Elevator Storage Act

*Assented to October 11th, 1973
Session Prorogued March 5th, 1974*

HER MAJESTY, by and with the advice and consent of the Legislative Assembly of the Province of Ontario, enacts as follows:

1. Section 1 of *The Grain Elevator Storage Act*, being chapter 195^{s. 1. amended} of the Revised Statutes of Ontario, 1970, is amended by re-lettering clause *a* as clause *aa* and by adding thereto the following clauses:
 - (a) "Board" means the Grain Elevator Storage Licence Review Board;
 -
 - (ea) "licence", except in subsection 2 of section 15, means a licence under this Act;
 - (eb) "Minister" means the Minister of Agriculture and Food.
2. Sections 6, 7 and 8 of the said Act are repealed and the following^{ss. 6-8. re-enacted} substituted therefor:
 - 6.—(1) The Minister may appoint a chief inspector and such other inspectors as he considers necessary to enforce^{Appointment of chief inspector and inspectors} this Act and the regulations.
 - (2) The production by an inspector of a certificate of his appointment purporting to be signed by the Minister is^{Certificate of appointment} admissible in evidence as *prima facie* proof of his appointment without further proof of the signature and authority of the Minister.
 - (3) Subject to subsections 4, 5, 6 and 7 an inspector may^{Powers of inspector} for the purpose of carrying out his duties under this Act, upon production of a certificate of his appointment,
 - (a) enter any grain elevator including any building used in connection therewith that he believes on reasonable

and probable grounds are used by a grain elevator operator and inspect such grain elevator or building and any grain stored and books, records or documents pertaining thereto; and

- (b) demand the production or furnishing by the owner or custodian thereof of any books, records, documents or extracts therefrom relating to grain stored by a grain elevator operator.

(4) Except under the authority of a warrant under section 16 of *The Summary Convictions Act*, an inspector shall not enter any part of a dwelling without the consent of the occupant unless,

- (a) the occupant is licensed under this Act; and
(b) he has reasonable grounds for believing that the occupant is using such part for storing books, records or documents that have not been produced or furnished by the occupant in accordance with a demand under clause b of subsection 3.

(5) An inspector shall exercise his powers under subsection 3 at all reasonable times, but nothing in this section affects the issuance and execution of a warrant under section 16 of *The Summary Convictions Act*.

(6) Where an inspector demands the production or furnishing of books, records, documents or extracts therefrom, the person having custody thereof shall produce or furnish them to the inspector, and the inspector may remove and detain them for the purpose of making, or causing to be made, one or more copies thereof if such copies are made with reasonable despatch, and the inspector shall forthwith thereafter return them to the person who produced or furnished them.

(7) Where a copy of a book, record, document or extract has been made under subsection 6, a copy purporting to be certified by the inspector to be a copy made pursuant to subsection 6 is admissible in evidence and has the same probative force as the original document would have had if it had been proven in the ordinary way.

(8) No person shall hinder or obstruct an inspector in the course of his duties or furnish him with false information or refuse to furnish him with information.

7. (1) No person shall receive or offer to receive farm produce for storage at a grain elevator unless he is the holder of a licence as a grain elevator operator issued by the chief inspector in respect of the grain elevator.

Entry of
dwellings
R.S.O. 1970,
c. 450

When powers
to be
exercised

Production
of records,
etc.

Certification
of copy

Obstruction
of inspector

Grain
elevator
operator's
licence

(2) The chief inspector shall issue a licence as a grain elevator operator to a person who makes application therefor in accordance with this Act and the regulations and pays the prescribed fee unless, after a hearing, he is of the opinion that, ^{Issue of licence}

- (a) the applicant or, where the applicant is a corporation, its officers or directors, is or are not competent to carry on the business;
- (b) the past conduct of the applicant, or where the applicant is a corporation, of its officers or directors, affords reasonable ground for belief that the business will not be carried on in accordance with the law;
- (c) the applicant does not possess or will not have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;
- (d) the applicant is not in a position to observe or carry out the provisions of this Act and the regulations;
- (e) where the applicant was previously the holder of a licence and,
 - (i) such licence was revoked, or
 - (ii) the applicant or, where the applicant is a corporation, any officer, servant or director thereof or any person who will be in any way associated with the applicant in connection with the business, was convicted of an offence,

under this Act, the grounds for such cancellation or conviction warrant a refusal to issue the licence; or

- (f) the applicant is not financially responsible.

(3) Subject to section 8, the chief inspector shall renew a licence on application therefor by the licensee in accordance with this Act and the regulations and payment of the prescribed fee. ^{Renewal of licence}

8.-(1) The chief inspector may refuse to renew or may suspend or revoke a licence if, after a hearing, he is of the opinion that, ^{Suspension, revocation or non-renewal of licence}

- (a) the licensee has ceased to possess or have available all premises, facilities and equipment necessary to carry on the business in accordance with this Act and the regulations;

- (b) the licensee or, where the licensee is a corporation, any officer, director or servant thereof has contravened, or has permitted any person under his control or direction in connection with the business to contravene, any provision of this Act or the regulations or of any other law in force in Ontario applying to the carrying on of such business or the conditions for licensing, and such contravention warrants such refusal to renew, suspension or revocation of the licence;
- (c) the licensee has failed to provide promptly and accurately a grain storage receipt to a producer from whom he received farm produce for storage;
- (d) any other ground for refusal to renew, suspension or revocation specified in the regulations exists; or
- (e) any ground for refusing to issue a licence under subsection 2 of section 7 exists.

Licence
deemed to
continue
in force

(2) Where within the time prescribed therefor or, if no time is prescribed, before expiry of his licence, a licensee has applied for a renewal of his licence and paid the prescribed fee and observed or carried out the provisions of this Act and the regulations, his existing licence shall be deemed to continue until he has received the decision of the chief inspector on his application for renewal.

Notice of
hearing

8a.—(1) The notice of a hearing by the chief inspector under section 7 or 8 shall afford the applicant or licensee a reasonable opportunity to show or achieve compliance before the hearing with all lawful requirements for the issue or retention of the licence.

Documents
to be made
available

(2) An applicant or licensee who is a party to proceedings in which the chief inspector holds a hearing shall be afforded an opportunity to examine before the hearing any written or documentary evidence that will be produced or any report the contents of which will be given in evidence at the hearing.

Chief
inspector
may vary
or rescind
decision

8b. Where the chief inspector has refused to issue or renew or has suspended or revoked a licence pursuant to a hearing he may, at any time of his own motion or on the application of the person who was the applicant or licensee, vary or rescind his decision but the chief inspector shall not vary or rescind his decision adversely to the interests of any person without holding a rehearing to which such person is a party and may make such decision pursuant to such rehearing as he considers proper under this Act and the regulations.

8c.—(1) A board to be known as the "Grain Elevator Storage Licence Review Board" is hereby established and shall consist of not fewer than three persons appointed by the Lieutenant Governor in Council none of whom are members of the public service in the employ of the Ministry of Agriculture and Food, and who shall, subject to subsection 2, hold office during pleasure. Review Board established

(2) A member of the Board shall hold office for not more than five consecutive years. Term of office

(3) The Lieutenant Governor in Council may appoint one of the members of the Board as chairman and another of the members as vice-chairman. Chairman, etc.

(4) A majority of the Board constitutes a quorum. Quorum

(5) The members of the Board shall receive such remuneration and expenses as the Lieutenant Governor in Council may determine. Remuneration

8d.—(1) Where the chief inspector refuses to issue or renew or suspends or revokes a licence, the applicant or licensee may, by written notice delivered to the chief inspector and filed with the Board within fifteen days after receipt of the decision of the chief inspector, appeal to the Board. Appeal to Board

(2) The Board may extend the time for the giving of notice by an applicant or licensee under subsection 1, either before or after expiration of such time, where it is satisfied that there are *prima facie* grounds for appeal and that there are reasonable grounds for applying for the extension. Extension of time for appeal

(3) Where an applicant or licensee appeals to the Board under this section, the Board shall hear the appeal by way of a hearing *de novo* to determine whether the licence should be issued, renewed, suspended or revoked and may after the hearing confirm or alter the decision of the chief inspector or direct the chief inspector to do any act he is authorized to do under this Act and the regulations and as the Board considers proper and, for such purpose, the Board may substitute its opinion for that of the chief inspector. Disposal of appeal

(4) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the chief inspector, unless the chief inspector otherwise directs, the decision of the chief inspector is effective until the appeal is disposed of. Effect of decision pending disposal of appeal

8e.—(1) The chief inspector, the appellant and such other persons as the Board may specify are parties to the proceeding before the Board under this Act. Parties

Members making decision not to have taken part in investigation, etc.

(2) Members of the Board assigned to render a decision after a hearing shall not have taken part prior to the hearing in any investigation or consideration of the subject-matter of the hearing and shall not communicate directly or indirectly in relation to the subject-matter of the hearing with any person or with any party or his representative except upon notice to and opportunity for all parties to participate, but such members may seek legal advice from an adviser independent from the parties and in such case the nature of the advice should be made known to the parties in order that they may make submissions as to the law.

Recording of evidence

(3) The oral evidence taken before the Board at a hearing shall be recorded and, if so required, copies or a transcript thereof shall be furnished upon the same terms as in the Supreme Court.

Findings of fact

1971, c. 47

(4) The findings of fact of the Board pursuant to a hearing shall be based exclusively on evidence admissible or matters that may be noticed under sections 15 and 16 of *The Statutory Powers Procedure Act, 1971*.

Only members at hearing to participate in decision

(5) No member of the Board shall participate in a decision of the Board pursuant to a hearing unless he was present throughout and heard the evidence and argument of the parties and, except with the consent of the parties, no decision of the Board shall be given unless all members so present participate in the decision.

Appeal to court

8f.—(1) Any party to the hearing before the Board may appeal from the decision of the Board to the Supreme Court in accordance with the rules of court.

Minister entitled to be heard

(2) The Minister is entitled to be heard, by counsel or otherwise, upon the argument of an appeal under this section.

Record to be filed in Court

(3) The chairman of the Board shall certify to the Registrar of the Supreme Court the record of the proceedings before the Board which, together with a transcript of the evidence before the Board if it is not part of the Board's record, shall constitute the record in the appeal.

Powers of court on appeal

(4) An appeal under this section may be made on any question that is not a question of fact alone and the court may confirm or alter the decision of the Board or direct the chief inspector to do any act he is authorized to do under this Act or may refer the matter back to the Board for reconsideration by the Board as the court considers proper and the court may substitute its opinion for that of the chief inspector or the Board.

(5) Notwithstanding that an applicant or licensee has appealed under this section from a decision of the Board, unless the Board otherwise directs, the decision of the Board is effective until the appeal is disposed of.

Effect of
decision of
Board
pending
disposal
of appeal

3. Section 17 of the said Act is repealed.

s. 17,
repealed

4. Section 19 of the said Act is repealed and the following substituted therefor:

s. 19,
re-enacted

19. The Lieutenant Governor in Council may make regulations,

Regulations

- (a) providing for the manner of issuing licences and prescribing their duration and the fees payable therefor;
- (b) prescribing the terms and conditions on which licences are issued;
- (c) prescribing grounds for refusal to renew, suspension or revocation of licences in addition to the grounds mentioned in section 8;
- (d) prescribing forms and providing for their use;
- (e) prescribing services that may be performed and acts that may be done by the chief inspector to protect the property of the producers of farm produce received for storage at a grain elevator where the licence of the grain elevator operator has not been renewed or has been suspended or revoked;
- (f) respecting any other matter necessary or advisable to carry out effectively the intent and purpose of this Act.

5. This Act comes into force on the day it receives Royal Assent.

Commence-
ment

6. This Act may be cited as *The Grain Elevator Storage Amendment Act, 1973*.

Short title

